

Judge Robb, cont.

diana State Bar Foundation and a Senior Distinguished Fellow of the Indianapolis Bar Foundation. She is a frequent speaker on legal topics for attorneys, other judges, and professional, civic and community organizations.

Judge Robb was Founding Chair of Governor Bowen's Commission on the Status of Women; was a recipient of a 1993 Indiana State Bar Association's "Celebrating 100 Years of Women in the Legal Profession" award; the 2001 Maynard K. Hine distinguished alumni award given in recognition of support and service to IUPUI and Indiana University; the 2004 Bernadette Perham "Indiana Women of Achievement"

Award, bestowed by Ball State University to honor of one of their outstanding professors; the 2005 Indiana State Bar Association's Women in the Law Recognition Award; the 2006 Tippecanoe County YWCA Salute to Women "Women of Distinction" Award; the 2007 Warren G. Harding High School, Warren, Ohio, Distinguished Alumni Award; the 2010 Indiana University Alumni Association President's Award, a 2010 Indiana Lawyer Distinguished Barrister Award, the 2011 Indianapolis Bar Association Women and the Law Committee's Antoinette Dakin Leach Award and the 2011 David Hamacher Award from the Appellate Practice Section of the Indiana State Bar Association.

Judge Robb chairs the Supreme Court Task Force on Family Courts and is involved in several projects to benefit the Indiana legal system. She also chaired the Supreme Court task force for the development of Trial Court Local Rules, has also served as a member of the Indiana Board of Law Examiners, the Governance Committee of the Supreme Court IOLTA (Interest on Lawyer Trust Account) Committee; the Federal Advisory Committee on Local Rules for the Federal Court for the Northern District of Indiana; and the Federal Advisory Committee for the Expediting of Federal Litigation.

Judge Robb authored "Reflections of Baseball, Life and the Law" in the Indiana State Bar Association's journal, *Res Gestae* and "Running Bases, Winning Cases: Why the Grand Old Game of Baseball is like the legal profession" in the ABA's journal. She also authored a chapter on Supreme Court Justice Leonard Hackney in, *Indiana Supreme Court Justices*, and co-authored a chap-

ter, "From Juvenile Courts to Family Courts," in *Essays on Indiana Legal History*.

In addition, she serves on the ABA Committee that accredits law schools and chaired the 2010 ABA's Appellate Judges Council-Appellate Judges Education Institute's national Summit for Judges, lawyers and Staff attorneys. Judge Robb is an elected member of the American Law Institute (ALI).

Judge Robb was retained on the Court of Appeals in 2000 and 2010, is married to a professor at Purdue University. Their son, a graduate of the United States Naval Academy, is a lieutenant on active duty in the United States Navy.

Judge Baker, cont.

In 2011 he joined the Board of Trustees of Garrett-Evangelical Theological Seminary in Evanston, IL, where he serves on the board's Academic Affairs committee.

Judge Baker was retained by election in 1992, 2002 and 2012. He and his wife have five children and – so far – nine grandchildren.

Judge Altice, cont.

Judge Altice moved to the civil division of the Marion Superior Court in 2013 and was appointed chair of the Marion Court Civil Term in January 2015.

Throughout his judicial career, Judge Altice has held leadership roles in organizations that improve the administration of justice. He accepted special assignments from the Indiana Supreme Court on the Judicial Performance Task Force and the Cameras in the Courtroom project, which allowed cameras in certain courtrooms under limited conditions. The Duval Work Release Center was built and opened during his tenure on the Marion County Community Corrections Advisory Board.

Judge Altice is a member of the Indiana Judges Association, the Indiana State Bar Association, and the Indianapolis Bar Association. In April 2015, Judge Altice was appointed to serve on an ad hoc Indiana Tax Court Advisory Task Force.

His community activities include prior service on the Board of Directors of these organizations: Indianapolis Police Athletic League; the Martin Luther King Community Develop-

ment Corp.; and Coburn Place Safe Haven, a transitional housing facility for domestic abuse victims.

He has presented on legal and ethical issues for the Indiana Continuing Legal Education Forum, the Indiana Judicial Center, and various Indiana bar associations. In his spare time, he enjoys gardening, golf and reading.

He and his wife, Kris, who is also an attorney, have two adult children.



Indiana's first State Capitol is a simple limestone structure in Corydon that was completed in 1816.

Before that, Corydon was the seat of Harrison County government and the capital of the Indiana Territory, which Congress carved from the Northwest Territory in 1800.

The capitol building was under construction as the territory prepared for statehood. Among other things, that process involved a formal petition to Congress, adoption of a state constitution, and a minimum population of 60,000.

Territorial delegates crafted Indiana's first Constitution on the site in June 1816, and the first General Assembly convened in the Federal-style building in November 1816. Congress approved Indiana's status as the 19th state on Dec. 11, 1816.

The capital moved to Indianapolis in 1825, a more central location that reflected the population's expansion into lands taken by treaty and arms from Native Americans.

SYNOPSIS

In January 2015, Michael Day and his wife, Mary, were experiencing marital problems and both agreed a divorce was necessary. Due to the declining state of their marriage, Mary and Michael often argued, and because Mary never wanted to argue in front of their two children, the couple often avoided one another, even sleeping in separate bedrooms.

One evening, after learning Mary had been contemplating divorce for the past six years, Michael arrived home late and began screaming expletives at Mary. Michael called Mary derogatory names and also allegedly spit in Mary's face. Mary pleaded with Michael to stop screaming in front of the children, but Michael did not stop. Mary became fearful and called 911 but immediately hung up. When the 911 operator called back, Mary answered the phone, but declined assistance. While still on the phone, however, the 911 operator heard Michael screaming in the background, and again asked Mary if she needed assistance; Mary responded affirmatively.

Michael Strait of the Franklin County Sheriff's Department was dispatched to the scene. Through the front door, Deputy Strait observed that Michael had Mary cornered in a room, with his finger pointed in her face. Deputy Strait could also hear Day screaming. After separating, and speaking with, the couple, Michael was arrested.

The State charged Michael with disorderly conduct as a Class B misdemeanor, alleging Michael recklessly, knowingly, or intentionally engaged in fighting or tumultuous conduct. At trial, Mary and Deputy Strait testified for the State; the State also played the 911 audio recordings. Michael testified in his own defense, admitting he screamed at Mary, but denied spitting in her face. Michael was found guilty.

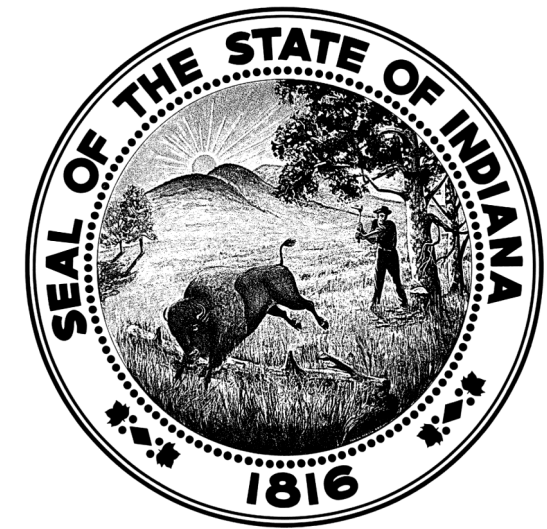
On appeal, Michael argues the evidence presented at trial was insufficient to support his conviction.

Court of Appeals Mission Statement

**To Serve All People
by Providing
Equal Justice Under Law**

Court of Appeals of Indiana

*Hearing oral argument at
Brownstown Central High School
Friday, Feb. 19, 2016 @ 1 p.m.*



Day v. State

24A05-1506-CR-724

*On Appeal from Franklin Circuit Court
The Honorable Clay M. Kellerman, Judge*

Indiana Bicentennial 1816-2016

Justice, Quoted

The complete independence of the courts of justice is peculiarly essential in a limited Constitution.
- *Alexander Hamilton, Federalist 78*

It is emphatically the province and duty of the Judicial Department to say what the law is. Those who apply the rule to particular cases must, of necessity, expound and interpret that rule. If two laws conflict with each other, the Courts must decide on the operation of each.
- *Chief Justice John Marshall*

Whatever disagreement there may be as to the scope of the phrase "due process of law" there can be no doubt that it embraces the fundamental conception of a fair trial, with opportunity to be heard.
- *Justice Oliver Wendell Holmes, Jr.*

The ultimate touchstone of constitutionality is the Constitution itself and not what we have said about it.
- *Justice Felix Frankfurter*

Law matters, because it keeps us safe, because it protects our most fundamental rights and freedoms, and because it is the foundation of our democracy.
- *Justice Elena Kagan*

Most high courts in other nations do not have discretion, such as we enjoy, in selecting the cases that the high court reviews. Our court is virtually alone in the amount of discretion it has.
- *Justice Sandra Day O'Connor*

Restriction on free thought and free speech is the most dangerous of all subversions. It is the one un-American act that could most easily defeat us.
- *Justice Thurgood Marshall*

The job of a judge is to apply the law. And so it's not the heart that compels conclusions in cases. It's the law. The judge applies the law to the facts before that judge.
- *Justice Sonia Sotomayor*

The day you see a camera come into our courtroom, it's going to roll over my dead body.
- *Justice David Souter*



Jackson County Courthouse

Jackson County was organized in 1815, one year before Indiana achieved Statehood. The county's organizational meetings were held in Vallonia, an old French settlement that served as a temporary county seat until a permanent seat was established in Brownstown. Most records indicate that Jackson County has had five courthouses, the earliest being a log/frame structure built in 1816 by John Ketchum. The current courthouse opened in 1911. It was not an entirely new building, but an expansion and reconstruction of the 1872 courthouse. The Castle-style building was extensively rebuilt and modified after a fire in 1959 that destroyed the original wood cupola atop the clock tower. The cupola was not rebuilt, and evidence of the reconstruction is visible where the brick changes about halfway up the clock tower.

Source: *Indiana County Courthouse Histories*

Attorneys for the Parties

For the Appellant

Joel C. Wieneke lives in Morgan County, Indiana. He currently serves as a member on the Board of Directors for the Indiana Public Defender Counsel and practices primarily criminal defense at the trial, appellate, and post-conviction levels. He has had the privilege to hunt white tailed deer and wild turkey on a friend's family farm in Brownstown and is honored to participate in the oral argument at Brownstown Central High School.

For the Appellee

Tyler G. Banks began working as a Deputy Attorney General in Criminal Appeals in March 2015. Mr. Banks graduated from Purdue University with a B.S. in Economics in 2009 and earned his J.D. in 2012 from Emory University School of Law in Atlanta, GA. While at Emory, he served as Executive Managing Editor for the *Emory International Law Review*, published a comment on international law and corporate liability, and received the Red Pen Award for Excellence in Editing. Before coming to the Attorney General's Office, Mr. Banks was a Deputy Prosecuting Attorney in Jackson County, IN, for more than two years, managing a caseload in excess of 1,200 filed cases per year. He is originally from Brownstown and now resides in Indianapolis.

Today's Panel of Judges



The Honorable
Margret G. Robb
Tippecanoe County

Margret G. Robb was appointed to the Court of Appeals of Indiana in July 1998 by Governor Frank O'Bannon. She holds a B.S. and an M.S. in Business Economics from Purdue University, a Magna Cum Laude J.D. from Indiana University Robert H. McKinney School of Law and is a graduate of the Graduate Program for Indiana Judges. In 2011 she began a three year term as chief judge; the first woman to hold that position in the Court's more than 100 year history.

Prior to her appointment to the Court, Judge Robb was, for 20 years, engaged in the general practice of law in Lafayette, and served as a Chapter 11, 12 and a standing Chapter 7 Bankruptcy trustee for the Northern District of Indiana. She was a registered family and civil mediator and served as a Tippecanoe County Deputy Public Defender.

She has been an officer of the Indiana State Bar Association, the Fellows of the Indiana State Bar Foundation, Tippecanoe County Bar Association, National Association of Women Judges, the Indiana University School of Law- Indianapolis Alumni Association and the Bankruptcy Section of the Indiana State Bar Association.

She has also been a Board member of the Appellate Judges Council of the American Bar Association, the Indianapolis Bar Association, the Indianapolis Bar Foundation, the Senior Council Section of the Indianapolis Bar Association, the Appellate Practice Section of the Indiana State Bar Association and the Appellate Judges Education Institute.

She was the moderator for the 2005-2006 and Chair for the 2006-2007 Indianapolis Bar Association's Bar Leader Series, and is a member of the American Bar Foundation, American Judicature Society, a Master Fellow of the In-

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The Honorable
John G. Baker
Monroe County

John G. Baker was named to the Court of Appeals in 1989, which makes him the longest-serving member on the current Court. He has served as Presiding Judge of the Court's First District, which covers all of southern Indiana, and as Chief Judge of the Court from 2007-2010.

Judge Baker grew up along the Ohio River in Aurora, IN, but attended high school at Culver Military Academy in northern Indiana. He studied history at Indiana University-Bloomington, and later received his law degree from Indiana University School of Law-Bloomington.

He practiced law in Monroe County for many years before joining the Monroe County bench as first a county and later a Superior Court Judge. Diligently, he handled more than 15,000 cases in 13 1/2 years on Monroe County benches, and has written more than 4,000 majority opinions for the Court of Appeals.

Judge Baker is greatly interested in the history, structure and organization of Indiana's judicial branch of government. He regards Indiana judges not as remote figures who conduct abstract arguments, but as people fully engaged in the life of the law and their communities.

He has taught in college and law school and is active in local, state and national bar associations. In 2013, Judge Baker retired after 33 years of teaching at the School of Public and Environmental Affairs, Indiana University-Bloomington. He continues to teach during the Spring semester at the McKinney School of Law.

Judge Baker's many community activities include his church, the YMCA and the Boy Scouts (where he attained Eagle Scout status as a youth).

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The Honorable
Robert R. Altice, Jr.
Marion County

Robert R. Altice, Jr., was appointed to the Court of Appeals by Gov. Mike Pence and began his service on Sept. 2, 2015.

Judge Altice earned his undergraduate degree from Miami University, Oxford, OH, a master's degree in criminal justice administration from the University of Central Missouri, and his law degree from the University of Missouri-Kansas City School of Law.

Judge Altice began his career handling felony cases as a deputy prosecutor in Jackson County, MO, before being promoted to Chief Deputy Prosecutor for the Drug Unit. He then practiced with a Kansas City civil law firm, focusing on medical malpractice defense. After moving to Indianapolis, he concentrated on insurance defense in private practice.

Judge Altice returned to prosecution in 1994, handling a major felony caseload as a deputy prosecutor for the Marion County Prosecutor's Office. He served as Chief of the Felony Division from 1997-2000, trying more than 100 major felony jury trials, including 25 murder cases. While serving briefly as the Office's Chief Counsel, he helped amend Indiana laws on domestic battery and possession of firearms by violent felons.

Judge Altice was elected to the Marion County bench in 2000. As judge of Marion Superior Court, Criminal Division 2 from 2001-2012, he presided at 250 major felony jury trials, including 75 murder trials (seven death penalty trials).

Judge Altice also served as chair of the Marion Superior Court Criminal Term from 2005-2007, as a member of the Executive Committee for the Marion Superior Court from 2007-2009, and as Presiding Judge of the Marion Superior Court from 2009 to 2011.

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